

# SECURITIES AND EXCHANGE COMMISSION

## FORM SC 13E4/A

Issuer tender offer statement filed pursuant to Rule 13(e)(4) [amend]

Filing Date: **1995-07-12**  
SEC Accession No. **0000914185-95-000059**

([HTML Version](#) on [secdatabase.com](#))

### SUBJECT COMPANY

#### **NATIONAL PATENT DEVELOPMENT CORP**

CIK: **70415** | IRS No.: **131926739** | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **SC 13E4/A** | Act: **34** | File No.: **005-38329** | Film No.: **95553433**  
SIC: **8200** Educational services

Business Address  
9 W 57TH ST  
SUITE 4170  
NEW YORK NY 10019  
2128268500

### FILED BY

#### **NATIONAL PATENT DEVELOPMENT CORP**

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WASHINGTON  
LOS ANGELES  
HARRISBURG  
LONDON  
FRANKFURT  
TOKYO

July 12, 1995

VIA EDGAR TRANSMISSION

Attention: File Support, EDGAR  
Securities and Exchange Commission  
Operations Center, Stop 0-7  
6432 General Greenway  
Alexandria, VA 22312

Re: National Patent Development Corporation  
Amendment No. 2 to Schedule 13E-4, File No. 005-38329

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Ladies and Gentlemen:

On behalf of National Patent Development Corporation (the "Company"), we have transmitted via EDGAR, pursuant to Rule 13e-4 under the Securities Act of 1934, as amended (the "Act"), the Company's Amendment No. 2 to Schedule 13E-4, with exhibits, in connection with the completion of the Company's offer to exchange (the "Offer") (i) 8% Bonds denominated in Swiss Francs and issued by the Company due June 28, 2000 (the "New Bonds"), in a principal amount of SFr. 650, and (ii) SFr. 600 in cash for each SFr. 1,000 in principal amount of 6% Convertible Bonds Due March 7, 1995 (Swiss Security No. 887283), 5 3/4% Convertible Bonds Due May 9, 1995 (Swiss Security No. 887284), 5 5/8% Convertible Bonds Due March 18, 1996 (Swiss Security No. 887286) and 8% Bonds due March 1, 1995 (Swiss Security No. 887282), and (a) New Bonds in a principal amount equivalent to US \$650 and (b) Swiss Francs cash with a value equivalent to US \$600 for each US \$1,000 in principal amount of 7% Dual Currency Convertible Bonds Due March 18, 1996 (Swiss Security No. 887287).

Should you have any comments or questions as to the Offer, please call either David Pollak at (212) 309-6058 or me at (212) 309-6372.

Sincerely,

Enclosure

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

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AMENDMENT NO. 2  
TO  
SCHEDULE 13E-4

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ISSUER TENDER OFFER STATEMENT  
(Pursuant to Section 13(e) (1) of the  
Securities Exchange Act of 1934)

NATIONAL PATENT DEVELOPMENT CORPORATION

---

(Name of Issuer)

NATIONAL PATENT DEVELOPMENT CORPORATION

---

(Name of Person(s) Filing Statement)

6% Convertible Bonds Due March 7, 1995,  
5 3/4% Convertible Bonds Due May 9, 1995,  
5 5/8% Convertible Bonds Due March 18, 1996,  
8% Bonds Due March 1, 1995, or  
(collectively, the "Old Swiss Franc Bonds")

7% Dual Currency Convertible Bonds Due March 18, 1996

(the "Old U.S. Dollar Bonds," and collectively with  
the Old Swiss Franc Bonds, the "Bonds")

---

(Title of Class of Securities)

6% Convertible Bonds Due March 7, 1995,  
(Swiss Security No. 887283)  
5 3/4% Convertible Bonds Due May 9, 1995,  
(Swiss Security No. 887284)  
5 5/8% Convertible Bonds Due March 18, 1996,  
(Swiss Security No. 887286)  
8% Bonds Due March 1, 1995, or  
(Swiss Security No. 887282)  
7% Dual Currency Convertible Bonds Due March 18, 1996  
(Swiss Security No. 887287)

---

(Cusip Number & Class of Securities)

Lawrence M. Gordon

National Patent Development Corporation  
9 West 57th Street  
New York, New York 10019  
(212) 230-9500

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(Name, Address and Telephone Number of Person Authorized to  
Receive Notices and Communications on Behalf of the  
Person(s) Filing Statement)

May 16, 1995

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(Date Tender Offer First Published,  
Sent or Given to Security Holders)

Response to General Instruction D

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As of June 14, 1995, the original Expiration Date of the Offer, SFr. 3,774,000 aggregate principal amount of Old Swiss Franc Bonds and US \$1,104,000 aggregate principal amount of Old U.S. Dollar Bonds were tendered for exchange pursuant to the Offer. National Patent Development Corporation (the "Company") extended the Expiration Date of the Offer from June 14, 1995 to June 28, 1995.

The Offer terminated at 5:00 p.m., New York City time, on Wednesday, June 28, 1995. As of June 28, 1995, SFr. 4,154,000 aggregate principal amount of Old Swiss Franc Bonds and US \$1,206,000 aggregate principal amount of Old U.S. Dollar Bonds were tendered for exchange pursuant to the Offer and were accepted by the Company. Pursuant to the terms of the Offer, the Company will issue SFr. 3,613,000 of its 8% Bonds due June 28, 2000 and SFr. 3,335,000 in cash in exchange for the tendered Old Bonds.

Item                      Response or Cross-Reference to  
                                 the Offering Circular

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Item 9                      Material to be filed as Exhibits.

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- (a)                      \*\* (1)                      U.S. Offering Circular dated May 16, 1995.
- \*\* (2)                      Foreign Offering Circular dated May 16, 1995.
- \*\* (3)                      Form of U.S. Letter of Instructions.
- \*\* (4)                      Form of Acceptance.
- \*\* (5)                      Advertisement dated May 16, 1995 published in

The New York Times.

\* (6) Notice, announcing the extension of the Offer, published in The Wall Street Journal on June 19, 1995.

(7) Press Release of National Patent Development Corporation dated July 6, 1995.

(b) None.

(c) \*\*\* (1) Draft of Indenture to be entered into between the Company and Bank of Montreal Trust Company, as Trustee, incorporated by reference to Exhibit T3C to the Form T-3 filed by the company on May 11, 1995.

- 2 -

(2) Exchange and Paying Agency Agreement dated as of May 16, 1995, among National Patent Development Corporation, Banque Scandinave en Suisse and Bank Leu Limited.

(d) None.

(e) None.

(f) None.

---

\* Previously filed on June 22, 1995.

\*\* Previously filed on May 16, 1995.

\*\*\* Incorporated by reference to the filing indicated.

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SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

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(Date)

NATIONAL PATENT DEVELOPMENT CORPORATION

By Lawrence M. Gordon

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Name: Lawrence M. Gordon  
Title: Vice President

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EXHIBIT INDEX

Page Number in  
sequentially  
Numbered Volume

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Exhibit (a)

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- 5 -

Exhibit (a) (7)

N A T I O N A L P A T E N T D E V E L O P M E N T C O R P O R A T I O N

9 WEST 57 STREET

NEW YORK, N.Y. 10019

(212) 826-8500

FAX: 230-9545

TELEX: 422550

Contact: Scott N. Greenberg  
Vice President and  
Chief Financial Officer  
(212) 230-9529

Lawrence M. Gordon  
Vice President and  
General Counsel  
(212) 230-9513

NATIONAL PATENT SUCCESSFULLY COMPLETES EXCHANGE OFFER REDUCING SWISS DEBT DUE IN 1995 TO APPROXIMATELY \$848,000 AND SWISS DEBT DUE IN 1996 TO APPROXIMATELY \$1,370,000

FOR IMMEDIATE RELEASE:

New York, New York, July 6, 1995....National Patent Development Corporation (NPD-ASE/PSE) announced today that it received an aggregate of SFr. 4,154,000 principal amount of its Swiss denominated bonds due in

1995 and 1996 and an aggregate of \$1,206,000 of its 7% Dual Currency Bonds due in 1996 in response to its Exchange Offer which expired on June 28, 1995. Under the terms of the Exchange Offer, National Patent will issue SFr. 3,613,000 of its 8% Bonds due June 28, 2000 (the "New Bonds"), and SFr. 3,335,000 in cash for the bonds tendered in the Exchange Offer.

As of June 30, 1995, after the results of the exchange offer, there are outstanding approximately \$848,000 of bonds due in 1995, and an aggregate of approximately \$1,370,000 of bonds which are due in 1996.

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Exhibit (b) (2)

#### EXCHANGE AND PAYING AGENCY AGREEMENT

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This Agreement is entered into as of May 16, 1995, among NATIONAL PATENT DEVELOPMENT CORPORATION, a Delaware corporation with principal offices at 9 West 57th Street, New York, New York 10019, United States of America (the "COMPANY"), BANQUE SCANDINAVE EN SUISSE, a Swiss corporation with principal offices at 11 Cours de Rive, 1204 Geneva, Switzerland ("BANQUE SCANDINAVE") and BANK LEU LIMITED, a Swiss corporation with principal offices at Bahnhofstrasse 20, 8001 Zurich, Switzerland ("BANK LEU", and together with Banque Scandinave sometimes collectively referred to as the "BANKS").

#### ARTICLE 1. THE OFFER

---

The Company proposes to make an offer (the "OFFER") on the Swiss capital market to exchange its outstanding 6% Convertible Bonds Due March 7, 1995, 5-3/4% Convertible Bonds Due May 9, 1995, 5-5/8% Convertible Bonds Due March 18, 1996, 8% Bonds Due March 1, 1995 and 7% Dual Currency Convertible Bonds Due March 18, 1996 (collectively, the "OLD BONDS") against (a) 8% bonds due June/July 2000 denominated in Swiss Francs (the "NEW BONDS") and (b) a cash amount in Swiss Francs. In exchange for each SFr. 1,000.-- principal amount and accrued interest thereon of the Old Bonds, the Company will offer New Bonds with a principal amount of SFr. 650.-- and SFr. 600.-- in cash. In exchange for each USD 1,000.-- principal amount and accrued interest thereon of Old Bonds denominated in US dollars, the Company will offer New Bonds in a Swiss Franc principal amount equivalent to USD 650.--



and cash in Swiss Francs with a value of USD 600.--. The Offer will be made on the terms and conditions set forth in the offering circular dated May 1995 (the "OFFERING CIRCULAR") and the form of acceptance, both attached hereto as Annex A.

ARTICLE 2. APPOINTMENT OF EXCHANGE AGENT

---

The Company hereby appoints the Banks, and the Banks hereby agree to act as exchange agents (the "EXCHANGE AGENTS") of the Company in connection with the Offer. In their capacity as Exchange Agents, the Banks will provide the following services (Banque Scandinave acting with respect to the 8% Bonds Due March 1, 1995 and the New Bonds and Bank Leu acting with respect to all other Old Bonds):

- (i) receive Old Bonds tendered in connection with the Offer;
- (ii) notify the Company from time to time and upon request of the total number of Old Bonds tendered to such date;
- (iii) notify the Company, no later than five business days prior to the date (the "PAYMENT DATE") on which the Old Bonds will be exchanged for the New Bonds and cash, of the final number of Old Bonds tendered;
- (iv) receive and hold in custody the global bond representing the New Bonds and distribute the cash on the Payment Date;
- (v) on behalf of the Company, account for and cancel tendered Old Bonds; and
- (vi) not earlier than 40 days after the Payment Date, deliver the definitive forms of the New Bonds, when available, to the deposit accounts indicated by holders thereof.

ARTICLE 3. FORM AND TERMS OF THE NEW BONDS

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- (a) The terms and conditions of the New Bonds (the "TERMS OF THE NEW BONDS") shall be as set forth on the reverse of the form of the New Bonds attached hereto as Annex B.

- (b) The Company shall deliver to Banque Scandinave the New Bonds in the form of the global certificate, substantially in the form attached hereto as Annex C, duly executed and completed, no later than two business days prior to the Payment Date. Banque Scandinave shall arrange on behalf of the Company for the printing of the New Bonds and shall hold the global certificate of such New Bonds until the delivery of the definitive forms thereof. Upon delivery of the definitive New Bonds, the global certificate shall be promptly cancelled by Banque Scandinave and returned to the Company.

#### ARTICLE 4. OFFERING CIRCULAR

---

- (a) The Company has prepared, with the assistance of the Banks in respect of the requirements of Swiss law, the Offering Circular, describing the Company, the Offer and the New Bonds in accordance with the requirements of Swiss law. Any reference herein to the Offering Circular shall be deemed to include any documents incorporated by reference or otherwise therein.

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- (b) The Company will, as soon as practicable, furnish to the Banks, 5 copies of the Offering Circular signed by an authorized officer of the Company, and with the independent accountants' reports therein signed by such accountants, and as many unsigned copies as the Banks may reasonably request in connection with the Offer.
- (c) The Banks have prepared a summary of the contents of the Offering Circular (the "SUMMARY OFFERING CIRCULAR") in the French and German languages and arranged for publication thereof in accordance with the requirements of Swiss law and the rules of the Swiss Stock Exchanges. The Company will have no responsibility for errors or omissions arising out of the preparation by the Banks of such summaries and translations.
- (d) The Banks will submit the Offer to the Commission for Regulation for confirmation as to its compliance with the Swiss Code Governing Public Offers for Debt Securities prior to any publication.
- (e) The Banks shall not deliver any Offering Circular, Summary Offering Circular or other materials concerning the

Offer to any person in the United States or to any United States person (both as defined in Article 14 below).

#### ARTICLE 5. FEES

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In consideration for the Banks' services hereunder, the Banks will receive such fees and expense reimbursements as have been separately agreed in writing.

#### ARTICLE 6. TAXES AND EXPENSES

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The Company undertakes to pay:

- (a) the Swiss federal securities transfer tax, if any.
- (b) all fees and expenses of the Banks as they have separately been agreed.

#### ARTICLE 7. REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

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(a) The Company represents and warrants that:

- (i) The Company is a duly organized corporation in good standing under the laws of the jurisdiction of its incorporation and is duly qualified to own its properties and assets and to transact the business and conduct the operations in which it engages.
- (ii) The execution and delivery of this Agreement has been duly authorized by the Company, and the performance of this Agreement and the consummation of the Offer and the transactions contemplated hereby, in particular the issue of the New Bonds, will not conflict with, result in a breach of, or constitute a default under the certificate of incorporation or by-laws of the Company or any agreement or instrument to which it is a party or by which it is bound, or any order or regulation applicable to the Company of any court or governmental authority or any arbitrator having jurisdiction over the Company.

- (iii) The Offering Circular is accurate in all material respects and does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.
- (iv) The consolidated financial statements of the Company and its subsidiaries included in the Offering Circular fairly present the consolidated financial position of the Company as of the dates referred to therein and results of the operations and changes in financial position for the periods therein specified, in accordance with generally accepted accounting principles in the United States of America applied on a consistent basis except as stated in the report of the independent auditors.
- (v) Except as set forth or contemplated in the Offering Circular, there has been no material adverse change in the operations, business, properties or assets of, or in the condition (financial or otherwise) of, the Company and its subsidiaries since December 31, 1994.
- (vi) Except as set forth or contemplated in the Offering Circular, there are no actions, suits or proceedings pending or, to the best of the

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Company's knowledge, threatened against or affecting the Company or its subsidiaries before any court, agency or arbitrator which might result in a judgment or decree having a material adverse effect on the business, operations, financial condition or income of the Company and its subsidiaries taken as a whole.

- (vii) This Agreement is, and the global certificate of the New Bonds and the New Bonds, when duly executed and delivered as provided herein will be legal, valid and binding obligations of the Company enforceable against the Company in accordance with their respective terms, except as such enforceability may be limited by equitable principles or by applicable bankruptcy, insolvency, moratorium and similar laws affecting creditors'

rights generally.

(viii) All consents and approvals of any court, governmental department or other regulatory body required for the execution and delivery by the Company of this Agreement and the issuance and sale by the Company of the New Bonds as contemplated herein and in the Offering Circular and the performance by the Company of the Terms of the New Bonds and this Agreement have been obtained and are in full force and effect or will be obtained by the Payment Date.

(b) The Company will indemnify and hold harmless each Bank against any losses, liabilities, costs, claims, expenses, actions or demands which they may incur or which may be made against them, other than those based upon or arising out of the gross negligence or willful misconduct of such Bank, related to or arising out of activities performed or services furnished as Exchange Agent or as a result of any material breach of any of the foregoing representations and warranties of the Company. Promptly after receipt by any Bank under this Article of notice of any claim or the commencement of any action, such Bank will, if a claim in respect thereof is to be made against the Company hereunder, notify the Company in writing thereof; but the failure so to notify the Company will not relieve the Company from any liability which it may otherwise have to the Bank. If it so elects within a reasonable time after receipt of such notice, the Company may assume the defense of any such action with counsel chosen by it and approved by the indemnified Bank in such action, unless such Bank reasonably objects on the ground that there may be legal

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defenses available to it which are different from those available to the Company. If the Company assumes the defense of such action, it shall not be liable for any fees and expenses of counsel for the Banks incurred thereafter in connection with such action. In no event shall the Company be liable for the fees and expenses of more than one counsel for all Banks in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances.

#### ARTICLE 8. CONDITIONS TO THE OBLIGATIONS OF THE BANKS

---

The obligations of the Banks hereunder shall be subject to the accuracy in all material respects of the representations and warranties of the Company contained herein as of the date hereof and as of the Payment Date (as if made at and as of the Payment Date), to the performance by the Company of its obligations hereunder, and to the condition that the Banks have received, on or before the Payment Date the following documents, in form and substance satisfactory to them:

- (a) certified articles of incorporation and by-laws of the Company and of the resolutions of the Board of Directors of the Company approving this Agreement and the transactions contemplated hereby; and evidence of the authority and incumbency of the persons executing this Agreement, the Offering Circular and the New Bonds on behalf of the Company;
- (b) a certificate of the Company signed by the principal financial or accounting officer of the Company, dated as of the Payment Date, to the effect that:

- (i) the representations and warranties of the Company contained in this Agreement are true and correct in all material respects at the Payment Date with the same effect as if made at and as of the Payment Date, and the Company has performed in all material respects all the obligations and satisfied all the conditions on its part to be performed or satisfied at or prior to the Payment Date; and

- (ii) since the date of the most recent audited financial statements included in the Offering Circular there has been no material adverse change in the condition (financial or other), earnings, business or properties of the Company and its subsidiaries, taken as a whole, whether

or not arising from transactions in the ordinary course of business, except as set forth or contemplated in the Offering Circular.

- (c) certificates of good standing of the Company of a recent date.

#### ARTICLE 9. NO STOCK EXCHANGE LISTING

The Company will not apply for the listing of the New Bonds on any stock exchange in Switzerland or elsewhere.

ARTICLE 10. PAYMENTS AND PAYING AGENT

---

- (a) The Company hereby appoints Banque Scandinave as its sole paying agent (the "PAYING AGENT") for the New Bonds and undertakes to transfer or cause to be transferred to the Paying Agent, not later than two business days in Geneva prior to each date on which a payment falls due (a "DUE DATE"), the funds or, if payment is to be made in shares of common stock of the Company, stock certificates representing the shares required for payments on the New Bonds in accordance with Section 5 of the Terms of the New Bonds and for the paying agency commissions set forth in this Article. Such payments shall be made in freely disposable legal currency of the Swiss Confederation, without any limitations and under all circumstances, irrespective of the nationality, residence or domicile of any of the holders of the New Bonds ("NEW BONDHOLDERS"), and without requiring any affidavit or the fulfilment of any formalities or, if payment is to be made in shares of common stock of the company, by delivery of stock certificates representing shares of common stock of the Company. All foreign exchange costs and expenses incurred by the Paying Agent and the Company in making available the funds required for payments on the New Bonds shall be borne by the Company.
- (b) The Paying Agent shall credit such funds to a separate non-interest-bearing account to be opened with the Paying Agent in the name of the Company for the interest and principal payments on each due date. All such funds shall be held in such account until the expiration of the period referred to in Section 10 of the Terms of the New Bonds, at which time such funds shall be repaid to the Company.
- (c) The Paying Agent shall be entitled to a trustee fee of SFr. 20,000.-- per annum, payable in advance on each annual interest payment date of the New Bonds, for the first time on the date of issuance (June/July 1995). In addition, on each due date the Company agrees to pay to the Paying Agent a commission of 0.25% of the amount of the coupons paid, and of 0.125% of the principal amount of the New Bonds redeemed. All such fees and commissions

are payable in cash in Swiss Francs.

- (d) So long as the Paying Agent shall satisfactorily perform its duties, the Company will not, without the Paying Agent's consent, appoint any other banks as paying agents or pay other banks any commission or remuneration for the collection of coupons or New Bonds.
- (e) The Paying Agent shall cancel and destroy all paid coupons and New Bonds. The Paying Agent shall furnish the Company with a record of such destruction including the number of coupons and serial numbers of New Bonds destroyed. The Paying Agent shall have the right to record cashed coupons and redeemed New Bonds on micro film or other data systems, instead of storing them during the statutory period.
- (f) The Paying Agent shall promptly publish all notices of default received from the Company pursuant to the Terms of the Bonds, provided, however, that the Paying Agent shall not be required to take any further action in the event of such default and shall assume no obligation and shall be subject to no obligation, and shall be subject to no liability under this Agreement to any New Bondholder or any other person.
- (g) The Company shall indemnify the Paying Agent against any loss, liability, cost, claim, expense, action or demand incurred or made against it, other than those based upon or arising out of the gross negligence or willful misconduct of the Paying Agent or any of its employees or agents, in connection with its acting, or exercising or refraining from exercising any of the rights and obligations conferred upon it, as Paying Agent under the terms of this Agreement.
- (h) For purposes of this Article 10, the Paying Agent shall exclusively act through its offices in Switzerland and otherwise shall act only in compliance with Section 5 of the Terms of the New Bonds.

ARTICLE 11. NOTICES AND REPORTS TO NEW BONDHOLDERS

---

- (a) The Company will arrange through the Paying Agent for the publication of all notices to New Bondholders, at the expense of the Company, in the Swiss Official Commercial Gazette and in a daily newspaper in Zurich,



Basle and Geneva.

- (b) So long as any of the New Bonds are outstanding, the Company will furnish the Paying Agent, to be held at the disposal of the New Bondholders, with 50 copies of each report on Form 10-K, Form 10-Q and Form 8-K, promptly after such report is filed by the Company with the U.S. Securities and Exchange Commission, and of any financial statements or other reports that the Company may from time to time furnish generally to its shareholders or holders of its debt securities.

ARTICLE 12. TERMINATION

---

The Banks shall have the right to terminate this Agreement prior to the Payment Date if:

- (a) there shall have been, subsequent to the dates as of which information is given in the Offering Circular, any material adverse change in, of affecting the business or properties of the Company and its subsidiaries taken as a whole, or if events should hereafter occur in the United States, in Switzerland or elsewhere in the world of a political, economic or monetary character, the effect of any which, in the reasonable opinion of the Banks, would be such as materially to jeopardize the success of the Offer;
- (b) the Company fails in any material respect to perform any of its obligations under this Agreement;
- (c) any of the representations and warranties made by the Company in this Agreement shall prove to have been incorrect in any material respect when made; or

- (d) there shall occur any event described in Section 15 of "The Offer" of the Offering Circular which the Banks reasonably believe may result in any liability to them or may involve them in any action, proceeding or application of the type described in such Section 15.

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Any such termination shall be in the absolute discretion of each of the Banks and shall be effective upon notice to the Company by such Bank. Upon such termination the parties hereto shall be relieved of their rights and obligations hereunder, except that the Company shall pay the costs and expenses incurred by the Banks prior to such termination in connection with the proposed Offer, unless such termination is based upon

point (a) above, and that the provisions of Articles 6, 7, 13, 14, 15, and 16 shall survive termination of this Agreement.

ARTICLE 13. CURRENCY OF PAYMENT

---

The obligations of the Company in respect of any amount stated to be due in Swiss Francs under the New Bonds or this Agreement shall, notwithstanding any payment in any other currency (whether pursuant to a judgment or otherwise), be discharged only to the extent of the amount in Swiss Francs that the party entitled to receive such payment may, in accordance with normal banking procedures, purchase with the sum paid in such other currency (after any premium and costs of exchange) on the banking day immediately following the day on which such party receives such payment. If the amount in Swiss Francs that may be so purchased for any reason falls short of the amount originally due, the Company shall pay such additional amounts as may be necessary to compensate for such shortfall. Any obligation of the Company not discharged by such payment shall be due as a separate and independent obligation and, until discharged as provided herein, shall continue in full force and effect.

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ARTICLE 14. SELLING RESTRICTIONS

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- (a) The New Bonds have not been and will not be registered under the United States Securities Act of 1933 (the "SECURITIES ACT") and may not be offered, sold or delivered, directly or indirectly, in the United States or to, or for the account of, any U.S. Person. Offers and sales of New Bonds in the United States or to U.S. Persons would constitute a violation of United States law unless made in compliance with the registration requirements of the Securities Act or pursuant to an exemption therefrom.
- (b) As to the Company, the New Bonds are intended to be obligations that are not required to be in registered form for purposes of United States federal tax laws. Accordingly, the New Bonds may not, as part of the Offer or otherwise as part of the initial distribution, be offered for sale or resale, sold or delivered, directly or indirectly, to a person in the United States or to a United States person. Consistent with these limitations, the Offer does not apply to, is not made to and may not be ac-

cepted by holders of Old Bonds that are within the United States or that are United States persons. In order to tender Old Bonds validly pursuant to the Offer, a Form of Acceptance in the form of Annex A hereto must be submitted by or on behalf of a holder of Old Bonds (i) certifying that the Old Bonds being tendered are not held by or on behalf of a person within the United States or a United States person, (ii) representing and agreeing that (a) such holder has not offered or sold, and, during the period beginning on the earlier of the first date that the New Bonds are offered or the Payment Date and ending on the date forty (40) days after the Payment Date (the "Restricted Period"), such holder will not offer or sell, New Bonds to a person who is within the United States or to a United States person, (b) such holder has not delivered and will not deliver within the United States definitive New Bonds that are sold during the Restricted Period, (c) in the case of a holder that offers or sells New Bonds during the Restricted Period, such holder has and throughout the Restricted Period will have in effect procedures reasonably designed to ensure that its employees or agents who are directly engaged in selling New Bonds are aware that such New Bonds may not be offered or sold during the Restricted Period to a person who is within the United States or to a United States person and (d) such holder has not entered and will not enter into any contractual arrangement with respect to the distribution and delivery of the New Bonds, except with its affiliates or with the prior written consent of the Company and (iii)

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with respect to each affiliate that acquires from it New Bonds for the purpose of offering or selling such New Bonds during the Restricted Period, repeating and confirming the representations and agreements contained in clauses (ii) (a), (b) and (c) on each such affiliate's behalf. For purposes of this Agreement, whether an offer, sale or delivery is made to a person within the United States or to a United States person will be determined under the rules set out in the United States Internal Revenue Code of 1986 (the "Code") and United States Treasury Regulation Section 1.163-5(c) (2) (i) (D). The Banks agree that they will comply fully with the selling restrictions set out in this Section 14(b) and, in particular, the Banks hereby covenant and agree to the effect set out in clauses (ii) and (iii) of the second preceding sentence.

(c) The New Bonds will be represented initially by a temporary Global New Bond (the "Global New Bond"), without interest

coupons, to be deposited by the Company with Banque Scandinave en Suisse, on behalf of the Banks, on the Payment Date. The Global New Bond may be exchanged, as a whole or in part, for appropriate definitive New Bonds, in bearer form in the denominations of SFr. 10, SFr. 100 and SFr. 1,000 with interest coupons (the "coupons") attached, not earlier than 40 days after the later of the date on which the New Bonds are first offered or the Payment Date, before which time no New Bonds represented by the Global New Bond or interest therein may be transferred to a person who is within the United States or to a United States person or a U.S. person. Such exchange shall be made upon certification, in the form attached hereto as Annex D, that the beneficial owners of the New Bonds are not United States persons or U.S. persons or are financial institutions (within the meaning of United States Treasury Regulation Section 1.165-12(c)(1)(v)) located outside the United States that are not United States persons and that have purchased such New Bonds for resale during the Restricted Period and that certify they have not acquired the New Bonds for purposes of resale directly or indirectly to a person who is within the United States or to a United States person or a U.S. person. A beneficial owner of New Bonds must exchange its share of the Global New Bond for definitive New Bonds before such New Bonds or interests therein may be transferred or interest payments or other payments in respect of the New Bonds will be made.

- (d) Tenders of Old Bonds pursuant to the Offer may be made only to the specified offices of the Banks outside the United

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States. The Company will deliver the New Bonds and cash to the Banks outside the United States, and the Banks will deliver on behalf of the Company, the New Bonds and cash pursuant to the Offer only to an account or address outside the United States.

- (e) In this Agreement, references to "dollars", "\$" and "US \$" are to United States dollars, the term "United States" means the United States of America (including the States and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction, and the term "United States person" means a citizen or resident of the United States, a corporation, partnership or other entity created or organized in or under the laws of the United States or any political subdivision thereof, or an estate or trust the income of

which is subject to United States federal income taxation regardless of its source. "U.S. person" shall have the meaning set forth in Sections 230.901 through 904 of Title 17 of the United States Code of Federal Regulations ("Regulation S").

(f) The following legend will appear on all New Bonds and coupons issued pursuant to the Offer: "Any United States person who holds this obligation will be subject to limitations under the United States income tax laws, including the limitations provided in sections 165(j) and 1287(a) of the Internal Revenue Code". The sections referred to in the legend provide that, with certain exceptions, a United States person will not be permitted to deduct any loss, and will not be entitled to capital gain treatment with respect to any gain, realized on a sale, exchange or redemption of such New Bonds or coupons.

(g) The Company represents, warrants and covenants that the New Bonds have not been and shall not be offered or sold except in accordance with Rule 903 promulgated under the Securities Act or in a transaction exempt from the registration requirements of the Securities Act. Each of the Company and the Banks represents, warrants and covenants that (i) none of it, its affiliates or any person acting on its behalf has engaged or will engage in any directed selling efforts (as defined in Rule 902 promulgated under the Securities Act) in the United States and it has complied and will comply with the offering restrictions of Regulation S under the Securities Act in connection with the Offer, (ii) none of it, its affiliates or any person acting on its behalf has utilized or will utilize any form of general solicitation or general advertising (as such terms are used in Regulation D promulgated under the Securities Act) in

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connection with the Offer or the offer or the sale of the New Bonds in the United States, (iii) none of it, its affiliates or any person acting on its behalf has made or will make the Offer in circumstances that would require the registration of the New Bonds under the Securities Act and (iv) tenders of Old Bonds pursuant to the Offer shall be accepted only from, and New Bonds shall be exchanged pursuant to the Offer only for, persons who are not within the United States.

ARTICLE 15. NOTICES

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All notices under this Agreement shall be deemed to have been duly given if sent by cable, telex or facsimile transmission (confirmed in writing, sent by registered airmail) to the following addresses:

If to the Company:

NATIONAL PATENT DEVELOPMENT CORPORATION  
9 West 57th Street  
New York, New York 10019, U.S.A.  
Attention: General Counsel  
Telex: 422550  
Telefax: (212) 230 9545

If to the Banks, the Exchange Agents or the Paying Agent:

BANQUE SCANDINAVE EN SUISSE  
Attention: Mr. Jean-Claude Birchler  
11 Cours de Rive  
1204 Geneva, Switzerland  
Telex: 413500  
Telefax: (022) 787 34 49

BANK LEU LIMITED  
Financial Engineering  
Post Office Box  
8022 Zurich, Switzerland  
Telefax: (01) 809 75 39

or to such other address as the party receiving the notice shall have notified to the other party in writing. Such cable, telex or facsimile transmission notice shall be deemed to have been duly given at the time of dispatch. Any party receiving a notice by cable, telex or facsimile transmission will be protected by relying upon the cabled, telexed or transmitted notice even though such notice is not subsequently confirmed in writing.

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ARTICLE 16. GOVERNING LAW; JURISDICTION

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This Agreement shall be governed by and construed in accordance with Swiss law. Any action or proceedings against the Company relating to this Agreement may be brought and enforced in the ordinary courts of the Canton of Geneva, venue being in the city of Geneva, and the Company hereby irrevocably submits to such courts in respect of any such action or proceeding with the right to appeal, to the extent provided by law, to the Swiss Federal Court in Lausanne, the judgment of which shall be final. Solely in connection with matters relating to this Agreement and for the purpose of its enforcement in Switzerland, the Company hereby elects legal and special domicile at the office of Lenz & Staehelin, Grand'Rue 25, 1211 Geneva 11, Switzerland. The Company covenants that so long as any New Bond is outstanding, it will maintain an agent for service of process in Switzerland.

The Banks shall also have the right to bring any legal action or proceeding against the Company in any state or federal court in the United States of America which may have jurisdiction.

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ARTICLE 17. COUNTERPARTS

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This Agreement may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the Company and the Banks have signed this Agreement as of the date first above written.

NATIONAL PATENT DEVELOPMENT CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

BANQUE SCANDINAVE EN SUISSE

By: \_\_\_\_\_  
Name:  
Title:

BANK LEU LIMITED

By: \_\_\_\_\_  
Name:  
Title: